

A REGULAR MEETING OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS WAS HELD JANUARY 21, 2003 AT 1:00 P.M. IN WARRENTON, VIRGINIA

P R E S E N T Mr. Harry Atherton, Chairman; Mr. Raymond Graham; Ms. Sharon McCamy; Mr. Larry L. Weeks; Mr. G. Robert Lee, County Administrator; Mr. Paul S. McCulla, County Attorney

A B S E N T Mr. Joe Winkelmann, Vice Chairman

AGENDA REVIEW

The Board of Supervisors reviewed the agenda. Mr. Atherton noted that Mr. Winkelmann was absent due to County business before the House of Delegates which required his travel to Richmond to provide testimony on behalf of Fauquier County.

PROFFER POLICY AND REZONING REQUEST RZ#02-L-06, MARGARET L. DYSON, OWNER/APPLICANT, LEE DISTRICT

A work session was held to discuss the Proffer Policy and application for rezoning request submitted by Margaret L. Dyson, owner/applicant, Lee District.

ECONOMIC DEVELOPMENT ADVISORY COUNCIL (EDAC) PROPOSED IMPLEMENTATION PLAN FOR THE EDAC UTILITIES TASK FORCE REPORT

Talmage Reeves, Director of Economic Development, presented a progress report on the Economic Development Advisory Council Utilities Task Force Plan to enhance and expand water service to the Opal, Marshall and New Baltimore Service Districts.

COMPREHENSIVE ANNUAL FINANCIAL REPORT UPDATE

Janice Bourne, Finance Director, and David Hughes of Robinson, Farmer, Cox and Associates, provided an update on the Fiscal Year 2002 Comprehensive Annual Financial Report and reviewed goals and reporting timelines of the Fiscal Year 2003 report.

HOUSEHOLD HAZARDOUS WASTE PROGRAMS

Anthony Hooper, Assistant County Administrator, reviewed the proposed schedule for the household hazardous waste disposal program.

PUBLIC SAFETY RADIO SYSTEM UPDATE

Anthony Hooper, Assistant County Administrator, provided an update on the Public Safety Radio System implementation plan.

ADOPTION OF THE AGENDA

Mr. Graham moved to adopt the Agenda, with the following changes. Mr. Weeks seconded, and the vote for the motion was unanimous as follows:

Ayes: *Mr. Harry Atherton; Mr. Raymond Graham; Ms. Sharon McCamy; Mr. Larry L. Weeks;*
Nays: *None*
Absent During Vote: *Mr. Joe Winkelmann*
Abstention: *None*

- Remove from the Consent Agenda and place on the Regular Agenda for discussion A Resolution to Amend the Board of Supervisors' Proffer Policy.
- Include, as additions to the Consent Agenda, A Resolution Approving Travel Expenses in Accordance with Travel Policy and Procedures and A Resolution to Approve Subdivision Street Acceptance for Blackwell Ridge Subdivision, Scott Magisterial District.
- Accept, on the Regular Agenda for discussion, a substitute resolution for A Resolution to Amend the 2003 Bylaws and Rules of Procedure for the Fauquier County Board of Supervisors.

CITIZENS TIME

- Keith Dickinson of the Fauquier County Extension Office, introduced Paige Thacker, newly appointed Horticulture Extension Agent.
- John Bulboick, Cedar Run District, requested that the Board revoke the County Ordinance which prohibits firearms in County parks.
- Chuck Medvitz, Scott District, urged the Board to use caution in granting rezoning applications and to adhere to the County proffer policy.
- Mr. Atherton introduced Mark Van de Water as the new Executive Director of the Rappahannock-Rapidan Regional Commission (PD - 9).

PROCLAMATIONS AND RECOGNITIONS

- Mr. Graham presented to Mrs. Patty Leonard A Proclamation in Recognition of the Leonard Family's Outstanding Farm Conservation Management Practices.
- Mr. Atherton presented A Proclamation in Recognition of Twenty-Two Years of Distinguished Service to the Citizens of Fauquier County to R.E. "Bob" Moore.
- Nancy Vehrs, Clerk to the Fairfax County Board of Supervisors, and Kim Allen, Clerk to the Manassas City Council, presented the Virginia Municipal Clerk's Association Region VII Career Achievement Award to Debbie Gouldthorpe.
- Ms. McCamy read A Proclamation to Recognize Serf Guerra for His Outstanding Service to the Citizens of Fauquier County Upon the Occasion of His Retirement from the Fauquier County Planning Commission.

CONSENT AGENDA

Mr. Graham moved to approve the following Consent Agenda items. Ms. McCamy seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Harry Atherton; Mr. Raymond Graham; Ms. Sharon McCamy; Mr. Larry L. Weeks;
Nays: None
Absent During Vote: Mr. Joe Winkelmann
Abstention: None

Approval of the Minutes for the November 18, 2002 Regular Meeting, the December 16, 2002 Regular Meeting, and the January 6, 2003 Organizational Meeting of the Fauquier County Board of Supervisors

A Resolution to Authorize Modification to the Fixed Base Operator Contract at the Warrenton-Fauquier Airport

RESOLUTION

A RESOLUTION TO AUTHORIZE MODIFICATION TO THE FIXED BASE OPERATOR (FBO) CONTRACT FOR THE WARRENTON-FAUQUIER AIRPORT

WHEREAS, in September 2002, Fauquier County and Tracey Corporation entered into a contract for Fixed Base Services at the Warrenton-Fauquier Airport; and

WHEREAS, Fauquier County has been advised that Tracey Corporation is unable to perform under the terms of the current agreement; and

WHEREAS, the Warrenton-Fauquier Airport Committee seeks to maintain stable operations during the period of major airport reconstruction; and

WHEREAS, the Warrenton-Fauquier Airport Committee recommends approval of the revised contract; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the Chairman of the Fauquier County Board of Supervisors be, and is hereby, authorized to execute a revised contract with Tracey Corporation for lease and operation of a Fixed Base Operator (FBO) concession at the Warrenton-Fauquier Airport.

A Resolution to Waive a Rezoning Application Fee

RESOLUTION

A RESOLUTION TO WAIVE A REZONING APPLICATION FEE

WHEREAS, Fauquier County has been in litigation regarding a subdivision plat and construction plan for the Coles Building Corporation and Ms. Leocade Leighton since 1987; and

WHEREAS, a County fee waiver of a rezoning application and the applicant's filing represents a good faith effort to resolve this long standing case, and will be consistent with the Circuit Court's decree (In Chancery No. 7902; 1987) issued in 1993; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the required application fee for Ms. Leocade Leighton's upcoming rezoning application regarding the property described as PIN 7905-86-7871, 7905-86-7609 and 7905-86-6501 be, and is hereby, waived; and, be it

RESOLVED FURTHER, That any rezoning application involving the three existing homes will result in no net gain in residential lots, and will result in lots conforming to setback, size, width, yard and other associated Zoning Ordinance requirements.

A Resolution to Approve the Timeline for Adoption of the FY 2004 Fauquier County Budget

RESOLUTION

A RESOLUTION TO APPROVE THE TIMELINE FOR ADOPTION OF THE FY 2004
FAUQUIER COUNTY BUDGET

WHEREAS, the County Administrator is required by Code of Virginia to prepare and submit to the Board of Supervisors a proposed annual budget for Fauquier County; and

WHEREAS, it is the intent of the Board of Supervisors to provide a general timeline to the County Administrator in the preparation of the proposed budget; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the following timeline be followed for the review of the County Administrator's FY 2004 Proposed Budget:

- The County Administrator will submit his FY 2004 Proposed Budget for the Board of Supervisors during the fourth week in February 2004.
- Work sessions will be scheduled as necessary to allow for detailed review of the Proposed Budget and examination of tax rates.
- The Board of Supervisors will adopt the Fauquier County FY 2004 Budget and CY 2003 tax rates prior to April 1, 2003, to allow for sufficient time to adopt tax rates for the June 5, 2003, real property collection deadline.

A Resolution to Amend the Approved Budgetary Strategies Relating to Anticipated Fiscal Year 2003 and Fiscal Year 2004 State Revenue Reductions

RESOLUTION

A RESOLUTION TO AMEND THE APPROVED BUDGETARY STRATEGIES
RELATING TO ANTICIPATED FISCAL YEAR 2003 AND FISCAL YEAR 2004
STATE REVENUE REDUCTIONS

WHEREAS, on August 19, 2002, Governor Mark Warner announced a \$1.5 billion revenue shortfall in the State's two-year budget cycle; and

WHEREAS, the Board of Supervisors held a work session at which time it was determined necessary and appropriate to initiate certain budgetary strategies effective immediately to increase its ability to effectively respond to the Fiscal Year 2003 and Fiscal Year 2004 State revenue reductions; and

WHEREAS, on October 21, 2002, the Fauquier County Board of Supervisors adopted the following budgetary strategies relating to anticipated Fiscal Year 2003 and Fiscal Year 2004 State revenue reductions:

1. All permanent General Government positions becoming vacant require County Administration approval to be filled.
2. Effective immediately, there shall be a moratorium on the creation of new positions or other expenses that constitute discretionary new programs or an expansion of mission outside of the annual budget cycle.
3. The County Administrator is directed to initiate a detailed review of capital project balances and related operating costs.
4. Effective immediately, there shall be a moratorium on the further appropriation of unobligated FY 2002 carryover balances for both the General Government and School Division, except to address specific State reductions, until the mid-year revenue and expenditure review.
5. Following the identification of the areas and amounts of State funding reduction, the County Administrator is hereby directed to prepare a detailed response plan for FY 2003 for consideration by the Board of Supervisors. This plan shall be presented to the Board no later than December 2002.
6. Any identified State funding reductions for FY 2004 will be addressed as part of the FY 2004 Budget process; and

WHEREAS, the Board of Supervisors has determined that certain changes to the budgetary strategies to exempt, from the vacancy approval process, sworn law enforcement and certain emergency dispatch personnel are necessary and appropriate; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That budgetary strategy #1, relating to anticipated Fiscal Year 2003 and Fiscal Year 2004 State revenue reductions, be, and is hereby, amended as follows:

“All permanent General Government positions, except sworn positions of the Sheriff’s Office and positions within the Warrenton-Fauquier Joint Communication Center that perform dispatch duties, becoming vacant require County Administration approval to be filled.”

A Resolution Authorizing a Lease of a Portion of the Warrenton Community Center (Old Central School) to the Rappahannock-Rapidan Community Services Board

RESOLUTION

**A RESOLUTION AUTHORIZING THE LEASE OF A PORTION
OF THE WARRENTON COMMUNITY CENTER (OLD CENTRAL SCHOOL)
TO THE RAPPAHANNOCK-RAPIDAN COMMUNITY SERVICES BOARD**

WHEREAS, the Fauquier County School Board deeded the Old Central School located on Shirley Avenue in the Town of Warrenton to the Board of Supervisors, said property being more particularly identified as PIN #6983-58-3887-000; and

WHEREAS, the Board of Supervisors has determined to operate a portion of the property as the Warrenton Community Center; and

WHEREAS, the Board of Supervisors has determined to lease a portion of the subject property to the Rappahannock-Rapidan Community Services Board for use as the Shadow Lawn Senior Center; and

WHEREAS, Section 15.2-1800 of the Code of Virginia exempts leases to other governmental entities from the requirement to hold a public hearing; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the Chairman of the Board of Supervisors be, and is hereby, authorized to execute a lease in substantial conformance with the one attached hereto and made a part hereof with the Rappahannock-Rapidan Community Services Board.

LEASE AGREEMENT

THIS AGREEMENT, made this 13th day of January, 2003, between the **COUNTY OF FAUQUIER**, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as Lessor, and the **RAPPAHANNOCK-RAPIDAN COMMUNITY SERVICES BOARD**, a body politic, existing under the laws of the Commonwealth of Virginia, hereinafter referred to as Lessee.

In consideration of the mutual covenants herein set out, the parties agree as follows:

1. DESCRIPTION OF PREMISES.

Lessor agrees to lease to the Lessee and the Lessee agrees to lease from

the Lessor the following described property hereinafter referred to as the premises:

All that portion of Building A, as shown on the Plat of Boundary Line Adjustment of Robert L. Baker, L.S., dated November 10, 2000, a copy of which plat is attached hereto as ***Attachment 1***, and that certain plat showing and designating uses within the interior of Building A, which plat is attached hereto as ***Attachment 2***. *

* *Building designations contained in the lease and on the attached plat are for purposes of this lease only and reflect actual building designations on site.*

Together with and subject to the non-exclusive right of (a) ingress and egress over the lands of the Lessor as shown on the aforesaid plat of Boundary Line Adjustment; (b) use of that certain parking lot located on the lands of the Lessor as shown on the aforesaid plat; (c) use of all common areas; and (d) the terms and conditions of that certain Cooperative Parking Agreement between the Board of Supervisors and School Board executed contemporaneously with this lease.

2. TERM.

The term of this lease shall extend for a period of 3 years from the date of execution of this agreement. This agreement shall be automatically renewed for up to 4 additional 3 year terms, provided, however, either party may terminate this agreement by giving the other party written notice of non-renewal six months prior to the expiration of the initial term or any renewal thereof. Any renewal term shall be subject to all the terms and conditions contained in this lease agreement.

Any reference to term in this agreement shall refer to the initial term and to any renewal of this agreement as provided above.

3. RENT.

Lessee shall pay as annual rent for the premises the sum of \$1.00. Rent shall be due on January 1 of each year.

4. BUILDING.

(a) **Condition of Building A.** Lessee covenants and agrees that it has inspected the portions of Building A leased to it under this Agreement and agrees that it is leasing those portions of the building in an "as is" condition.

(b) **No Warranties.** Lessor makes no warranties of any kind or nature

regarding the physical condition of the building or as to its fitness for use for a particular purpose. Lessee acknowledges and agrees that it is leasing those portions of the building in an "as is" condition or fitness for a particular purpose.

(c) **Liability.** Lessee expressly assumes full responsibility for all damages and injury to persons or property that may result by reason of its use of the Building under this lease agreement, and shall indemnify Lessor against any and all claims arising from such actions.

(e) **Signage.**

(i) Lessee shall have the right to attach one exterior sign to the building designating its use of a portion of the building for the Shadow Lawn Senior Center, provided that the size, design and method of attachment of the sign shall be subject to the approval of the Lessor's General Services Department which approval shall not be reasonably withheld. Lessee shall obtain all approvals from the Town of Warrenton necessary to permit the erection of the sign.

(ii) Lessor may erect one freestanding sign identifying each building and its use at the Warrenton Community Center and Education Complex. The nature, size, design and location shall be at the sole discretion of the Lessor. The cost of the sign shall be shared equally by all lessees and users of the Warrenton Community Center and Education Complex.

(iii) Lessor shall designate and erect signage for appropriate handicapped bus parking areas.

(f) **Improvements to Building A.** Lessee shall not make any interior or exterior improvement to the Building without the prior consent of the Lessor.

5. **MAINTENANCE OF BUILDING, JANITORIAL SERVICES,
DISPOSAL OF TRASH AND PEST CONTROL**

Lessee shall, throughout the term of this lease agreement, pay its equal share for the cost of janitorial services that shall keep and maintain its portion of the building in good, sanitary, neat order and condition. Lessor shall provide maintenance and repair services for the interior and exterior of Building A and all common open space, including parking lots, so as to keep and maintain said building in a safe condition and repair. Provided, however, if the building is damaged, destroyed or deteriorates to a point where the Lessor, in its sole discretion, determines it is not cost effective to repair

or replace the building, the Lessor shall have the right to terminate this agreement and all parties shall be released from liability hereunder.

Lessor shall designate a trash disposal area and Lessee shall dispose of all trash at the designated area in a manner in accordance with rules and procedures issued by the Lessor's Department of General Services. In the event the Town of Warrenton shall fail to provide free trash disposal services, Lessee shall pay an equal share of the cost of trash disposal in a method which shall be determined by the County in its sole discretion.

Lessee shall pay an equal share of the cost of pest control in a method which shall be determined by the County in its sole discretion.

6. USE OF THE LEASED PREMISES.

Lessee agrees that the leased premises shall be used by Lessee exclusively for benevolent, charitable and educational purposes to operate its Shadow Lawn Senior Center Adult Day Care and Retired Senior Volunteer Program. Such use shall conform with applicable Town, County, State and Federal ordinances, regulations and laws. No other use of the building shall be allowed unless prior written consent is obtained from the Fauquier County Board of Supervisors which may be granted or not granted at the absolute discretion of the Board. No hazardous waste or materials shall be kept in the building except with the written consent of the Lessor.

7. SCHEDULING OF ACTIVITIES.

Lessee shall schedule, through Lessor's Department of Parks and Recreation, all after-school and weekend activities which involve the use of the parking areas for which use is authorized under this Lease or the Cooperative Parking Agreement or the common areas, including but not limited to, the paved basketball court, the rooms designated for joint use on Attachment 2, and playground facilities. Parks and Recreation shall schedule activities based upon a four month, first-come-first-served process. For purposes of this Agreement, the phrase "after school" shall mean after 3:30 PM.

8. SUBLEASE AND ASSIGNMENT.

Lessee may not sublease its portion of the building in whole or in part without the express written consent of the Lessor. Lessee shall not assign or transfer this lease agreement, or any interest in this lease agreement, without the prior, express, and

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written consent of the Lessor, and a consent to an assignment shall not be deemed to be a consent to any subsequent assignment. Any assignment without consent shall be void, and shall, at the option of the Lessor, terminate this lease agreement.

Neither this lease agreement nor the leasehold estate of Lessee, nor any interest of Lessee under this lease agreement in the demised building shall be subject to involuntary assignment, transfer, or sale, or to assignment, transfer, or sale by operation of law in any manner whatsoever. Any attempted involuntary assignment, transfer, or sale shall be void and of no effect and shall, at the option of the Lessor, terminate this lease agreement.

9. LESSOR'S RIGHT OF ENTRY.

Lessor or Lessor's agent may enter the building to examine the same, to do anything Lessor may be required to do hereunder or which Lessor may deem necessary for the good of the building.

10. COMPLIANCE WITH LAWS.

At all times during the terms of this lease agreement, Lessee shall obey and comply with all lawful requirements, orders, regulations, laws, rules, and ordinances of all legally constituted public authorities in any way affecting the demised premises, the facilities and improvements thereon, or the use of the same.

11. TERMINATION.

(a) **Due to breach.** In the event of the Lessee's breach of this agreement, the Lessor, in addition to any other action or remedy permitted by law, has the right to enter and retain possession of the premises by any lawful means. If the Lessee does not remedy the breach within thirty days of receipt of written notice from Lessor, the Lessor may terminate this lease agreement.

(b) **No Cause.** The Lessor may, upon its sole discretion and without cause, terminate this lease agreement upon 180 days written notice to Lessee.

12. UTILITIES AND TELEPHONE SERVICES.

Lessee shall pay to the Lessor its proportionate share of the following utilities: electricity, gas, water and sewer. Lessee's proportionate share of the utility costs to the Warrenton Community Center and Education Complex shall be determined in accordance with ***Attachment 3***, which is attached to and made a part of this agreement. Lessor shall maintain and repair the existing telephone system servicing the building. Lessee shall pay for all long distance telephone charges arising out of its use of the building, along with its proportionate share of any monthly charges, taxes and fees associated with the telephone service to the Complex. Lessee shall not install a pay telephone except with the written consent of the Lessor. Lessee shall pay for all cable, internet, or direct TV charges associated with its use of its portion of the building.

14. INSURANCE.

During the term of this agreement, Lessee shall obtain, pay all premiums for, and furnish certificates to, Lessor for insurance as specified by the Fauquier County Office of Risk Management.

All such insurance contracts shall name Lessor and Lessee as their interests appear and shall inure to the benefit of Lessee and Lessor and their officers, agents, elected officials, representatives or employees. Such insurance contracts shall be with companies acceptable to Lessor and they shall require 60 days written notice to both parties hereto of any cancellation or modification.

15. DAMAGE TO PROPERTY ON PREMISES.

Lessee agrees that all property of every kind and description kept, stored or placed in the building shall be at the Lessee's sole risk and hazard and that Lessor shall not be responsible for any loss or damage to any of such property resulting from fire, explosion, water, steam, gas, electricity, or the elements, whether or not originating in the building caused by or from leaks or defects in or breakdown of plumbing, piping, wiring, heating, or any other facility, equipment, or fixtures or any other cause or act and whether or not resulting from the negligence of Lessor or other tenants of Lessor and anyone for whom Lessor may be responsible.

16. INDEMNIFICATION AND HOLD HARMLESS.

Lessee covenants at all times to indemnify and hold Lessor harmless for all loss, liability, cost, or damages that may occur or be claimed with respect to any person or property on, in or about the leased premises or to the leased premises themselves resulting from any act done or omission by or through Lessee, its agents, employees, invitees, or any person on the premises by reason of Lessee's use or occupancy or resulting from Lessee's non-use, or possession of such property and any and all loss, cost, liability, or expense resulting therefrom, and further covenants at all times to maintain such premises in a safe and careful manner.

17. WAIVER.

The rights and remedies of Lessor under this lease, as well as those provided or accorded by law, shall be cumulative, and none shall be exclusive of any other rights or remedies hereunder or allowed by law. Failure of Lessor to enforce any provision of this agreement shall not be deemed a waiver of such right. A waiver of Lessor of any breach or default of Lessee hereunder shall not be deemed or construed to be a continuing waiver of such breach of default nor as a waiver of or permission, expressed or implied, for any subsequent breach or default. It is agreed that the acceptance by Lessor of any installment of rent, subsequent to the date the same should have been paid hereunder, shall in no manner alter or affect the covenant and obligation of Lessee to pay subsequent installments of rent promptly upon the due date thereof. No receipt of money by Lessor after the termination in any way of this lease shall reinstate, continue, or extend the term above demised.

18. ENCUMBRANCES.

Nothing contained this lease agreement shall be construed to authorize Lessee to do any act or make any contract so as to encumber in any manner the title of Lessor in and to the demised premises or to create any claim or lien the leased premises.

Any assignment, transfer, or conveyance by Lessee of any property rights arising out of this lease shall not encumber, alienate, diminish, cloud, or impair in any way the title ownership and interests of Lessor in and to such property. Lessee shall promptly pay when due all obligations or indebtedness incurred under or by virtue of this lease, including but not limited to taxes, labor, services, materials, supplies, furnishings, machinery or equipment which may be secured by any mechanic's or materialmen's lien or any other lien against the premises leased. This lease is subject to provisions of Fauquier County Ordinances and Virginia Code prohibiting alienation of title.

If, as a result of any construction, rebuilding, remodeling, or demolition by Lessee, or at its direction, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Lessor or any portion of the demised premises, Lessee shall, at its own cost and expense, cause it to be discharged of record or bonded within 30 days after written notice from Lessor to Lessee of the filing.

Lessee shall indemnify Lessor against and from any and all costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees, resulting from any such lien.

19. NOTICES.

All notice hereunder shall be sufficient if sent by registered or certified mail addressed as follows:

To Lessor:	Fauquier County County Administrator 40 Culpeper Street, 4 th floor Warrenton, VA 20186
To Lessee:	Rappahannock-Rapidan Community Services Board c/o Brian Duncan, Executive Director P. O. Box 1568 Culpeper, VA 22701

20. ENTIRE AGREEMENT.

This agreement contains the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this lease agreement shall not be binding upon either party except to the extent incorporated in this agreement.

21. MODIFICATION.

Any modification of this lease agreement or additional obligation assumed by either party in connection with this lease agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

22. PARTIES BOUND.

The covenants and conditions contained in this lease agreement shall, subject to the provisions as to assignment, transfer, and subletting, apply to and bind the

heirs, successors, executors, administrators, and assigns of all of the parties to the lease agreement.

23. CHOICE OF LAW AND FORUM.

This lease agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Virginia. All disputes arising under this agreement shall be brought before a proper court in the Commonwealth of Virginia.

24. HEADINGS.

The headings of the sections of this lease agreement are for convenience only and are not a part of this lease agreement and do not in any way alter, amend, limit or amplify the terms and provisions of this lease agreement.

25. SEVERABILITY.

Any provision of this lease agreement which is prohibited by, or unlawful or unenforceable under Virginia law shall be ineffective only to the extent of such prohibition, without invalidating the remaining provisions of this lease.

For Lessor:

Fauquier County, a political
subdivision of the Commonwealth
of Virginia

Name and Title

Date

For Lessee:

**Rappahannock-Rapidan Community
Services Board**, a body politic

Name and Title

Date

**Consider Preliminary Subdivision Application #PP03-S-16, Grays Mill Village,
R.E. Faylor Contracting, Inc., Owner/Applicant, Scott District**

No action necessary.

A Resolution to Deny the Claim of Donald R. Tharpe, Trustee of the Donald R. Tharpe Trust, for the Sum of \$10,300,000

RESOLUTION

A RESOLUTION TO DENY THE CLAIM OF DONALD
R. THARPE, TRUSTEE OF THE DONALD R. THARPE TRUST,
FOR THE SUM OF \$10,300,000

WHEREAS, on November 18, 2002, the Board of Supervisors of Fauquier County adopted a resolution amending its Comprehensive Plan for the Bealeton Service District; and

WHEREAS, on November 18, 2002, the Board of Supervisors adopted a resolution denying the request of Donald R. Tharpe, Trustee of the Donald R. Tharpe Trust, to rezone a portion of property owned by the Trust; and

WHEREAS, on December 16, 2002, Donald R. Tharpe, Trustee of the Donald R. Tharpe Trust, submitted a Statement of Claim to the Fauquier County Board of Supervisors seeking the payment of \$10,300,000 in damages for alleged violations of the United States and Virginia Constitutions resulting from the Board's actions related to the amendment of its Comprehensive Plan for the Bealeton Service District and its denial of the rezoning application of Donald R. Tharpe, Trustee of the Donald R. Tharpe Trust; and

WHEREAS, pursuant to Virginia Code §15.2-1245, the Board of Supervisors has received the aforesaid Statement of Claim, the opinion of the County Attorney as to whether the Claim is illegal, or not before the Board in proper form, or upon proper proof, or for any other reason it should not be allowed, and has considered the Claim; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the claim of Donald R. Tharpe, Trustee of the Donald R. Tharpe Trust, seeking a total claim in the amount of \$10,300,000 be, and is hereby, denied.

A Resolution to Authorize a Donation to the American Red Cross for the Solid Waste Tipping Fees and Land Development Fees Associated with the Disposal of the Remnants of the Fire Damaged Residential Structure Owned by the Patterson Family and the Reconstruction Thereof

RESOLUTION

A RESOLUTION TO AUTHORIZE A DONATION TO THE AMERICAN RED
CROSS FOR THE SOLID WASTE TIPPING FEES AND LAND DEVELOPMENT
FEES ASSOCIATED WITH THE DISPOSAL OF THE REMNANTS OF THE FIRE
DAMAGED RESIDENTIAL STRUCTURE OWNED BY THE PATTERSON FAMILY
AND THE RECONSTRUCTION THEREOF

WHEREAS, on January 6, 2003, the Board of Supervisors received a letter, dated December 17, 2002, from the American Red Cross, Fauquier Chapter, requesting that the Fauquier County Government provide assistance to the Patterson Family, Cedar Run Magisterial District, who lost their home to fire on December 8, 2002; and

WHEREAS, the Patterson family, consisting of an elderly couple on disability and a disabled son, are suffering under severe financial hardship, which will make it extremely difficult for the family to pay the solid waste tipping fees required for the disposal of the fire damaged remnants of their former residence, as well as the land development fees relating to its reconstruction; and

WHEREAS, the Fauquier community, including community non-profits and local churches, have rallied together to help the family in their time of need assisting with the provision of basic care items, food, clothing and will be assisting with the construction of a new home for the family; and

WHEREAS, in recognition of the severe financial hardship being experienced by the Patterson family as they endeavor to replace their fire damage home and in support of the many community groups working with the family, the Board of Supervisors wishes to assist through the donation of debris disposal and land development fees, to help make this a worthy community goal; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the Fauquier County Board of Supervisors authorizes a donation to be made to the American Red Cross to cover costs of landfill tipping fees associated with the disposal of the fire damaged remnants of the Patterson home, which was destroyed by fire December 8, 2002, and for any Land Development fees.

A Resolution to Authorize Contract Amendments to Implement the Public Safety Radio System

RESOLUTION

A RESOLUTION TO AUTHORIZE CONTRACT AMENDMENTS TO IMPLEMENT
THE PUBLIC SAFETY RADIO SYSTEM

WHEREAS, the Board of Supervisors has reviewed the progress and changed circumstances pertaining to the implementation of the Public Safety Radio Contract; and

WHEREAS, two Change Orders to the Motorola contract are required pertaining to the relocation of the back-up center and the addition of two channels to the radio system; and

WHEREAS, it has been determined to be in the County's financial interest to construct two communications towers; and

WHEREAS, the County has received a proposal from CTA for engineering services for the Enzors Shop Road and Blue Mountain Towers; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That Contract Amendments to Motorola for Change Order 02 – Relocation

of Back-Up Center, a reduction of \$60,923, and Change Order 03 – Add Two Channels to System, an increase of \$178,446 be, and are hereby, approved; and, be it

RESOLVED FURTHER, That a contract amendment to the CTA Contract for Engineering Services in the amount of \$154,976 for services required for the towers at Enzors Shop Road and Blue Mountain be, and are hereby, approved.

A Resolution Approving Travel Expenses in Accordance with Travel Policy and Procedures

RESOLUTION

A RESOLUTION APPROVING TRAVEL EXPENSES IN ACCORDANCE WITH
TRAVEL POLICY AND PROCEDURES

WHEREAS, the Fauquier County Board of Supervisors has adopted Travel Policy and Procedures which require approval of expenditures in excess of \$1,000; and

WHEREAS, Fauquier County recognizes the on-going value of supporting the professional development of its staff; and

WHEREAS, the training offered by the Government Finance Officers Association is the most advantageous for local government finance and budget practitioners, and the annual conference provides the most comprehensive selection of sessions available in the profession; and

WHEREAS, Fauquier County adopted its Fiscal Year 2003 budget, including appropriated funds for staff members to participate in the Government Finance Officers Association Annual Conference; and

WHEREAS, the Finance Director, the Assistant Finance Director, the Budget Director, and the Sheriff's Chief Financial Officer are requesting approval to participate in this conference; and

WHEREAS, the conference is held from May 18 – 21, 2003 in New York City, and the cost is estimated to be \$1,500 for each attendee; and

WHEREAS, the County will be the beneficiary of the training and development in such areas as the new GASB 34 reporting model, performance management objectives and performance measurement, debt planning and management, financial modeling, capital improvements program enhancements, revenue enhancements, and current developments in public budgeting; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That approval be, and is hereby, granted for staff designated herein to attend the Government Finance Officers' Association Annual Conference, and to subsequently be reimbursed for travel expenditures associated with this attendance.

A Resolution to Approve Subdivision Street Acceptance for Blackwell Ridge Subdivision, Scott Magisterial District

RESOLUTION

A RESOLUTION TO APPROVE SUBDIVISION STREET ACCEPTANCE FOR
BLACKWELL RIDGE SUBDIVISION, SCOTT MAGISTERIAL DISTRICT

WHEREAS, a certain street on the attached site location map titled "Blackwell Ridge Subdivision" dated January 15, 2003, and described on the attached Additions Form SR-5(A), fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Fauquier County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board this street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the above street serves a genuine public need; and

WHEREAS, on February 7, 1995, Fauquier County and the Virginia Department of Transportation have entered into an agreement for comprehensive stormwater detention, which applies to this request for addition; now therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the Virginia Department of Transportation be, and is hereby, requested to take the necessary action to add the above described street in the State Highway Secondary System for maintenance, as provided in Sec. 33.1-229, Code of Virginia, and the Virginia Department of Transportation's Subdivision Street Requirements; and, be it

RESOLVED FURTHER, That this Board does guarantee the Commonwealth of Virginia an unrestricted right-of-way of variable width with an average of fifty feet in the Blackwell Ridge Subdivision, with necessary easements for cuts, fills, and drainage; as recorded in Deed Book 846, Page 959, dated August 2, 1999, in Deed Book 742, Page 1500, dated August 24, 1995, and in Deed Book 995, Page 525, dated December 18, 2002; and, be it,

RESOLVED FINALLY, That a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

**CONSIDER COMPREHENSIVE PLAN AMENDMENT #CPA02-L-05 AND
REZONING REQUEST #RZ02-L-06, MARGARET L. DYSON,
OWNER/APPLICANT**

On December 16, 2002, a public hearing was held to receive citizen comments on Comprehensive Plan Amendment #CPA02-L-05, changing future designation of property located at the intersection of Courtney's Corner Road (Route 634) and Brooks Store Drive (Route 632), in the Village of Morrisville, from Commercial to Residential, and to consider Rezoning Request #RZ02-L-06 for approximately 16.0455 acres of the subject property to be rezoned from Commercial-Neighborhood (C-1) to Residential-1 (R-1). On December 16, 2002, Comprehensive Plan Amendment #CPA02-L-05 was approved, and Rezoning Request RZ02-L-06 was tabled until the next regular Board meeting for a

decision. Ms. McCamy moved to adopt the following Ordinance approving Rezoning Request #RZ02-L-06. Mr. Graham seconded, and the motion carried with a vote of 3 – 1 as follows:

<i>Ayes:</i>	<i>Mr. Harry Atherton; Mr. Raymond Graham; Ms. Sharon McCamy</i>
<i>Nays:</i>	<i>Mr. Larry L. Weeks</i>
<i>Absent During Vote:</i>	<i>Mr. Joe Winkelmann</i>
<i>Abstention:</i>	<i>None</i>

ORDINANCE

AN ORDINANCE TO APPROVE REZONING REQUEST #RZ02-L-06 MARGARET DYSON PROPERTY

WHEREAS, Margaret Dyson, the owner and applicant, has initiated a request to rezone a 16.05 acre parcel (PIN 7816-26-1092-000) from Commercial Neighborhood (C-1) to Residential -1 (R-1); and

WHEREAS, the applicant has filed an application to amend the Fauquier County Zoning Map in accordance with the provisions of Article 13-202 of the Fauquier County Zoning Ordinance; and

WHEREAS, the proposed rezoning is in conformance with the Fauquier County Comprehensive Plan; and

WHEREAS, on April 25, 2002, the Fauquier County Planning Commission held a public hearing on the rezoning request of Margaret Dyson; and

WHEREAS, at its meeting on August 29, 2002, the Fauquier County Planning Commission approved a motion recommending denial of the requested rezoning; and

WHEREAS, on December 16, 2002, the Board of Supervisors held a public hearing on this rezoning request; and

WHEREAS, the Board of Supervisors has determined that the public necessity, convenience, general welfare, and good zoning practice is satisfied by this amendment to the Fauquier County Zoning Map; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 21st day of January 2003, That Rezoning Request #RZ02-L-06 to change the zoning designation of a 16.05 acre parcel at the northeast quadrant of the intersection of Routes 634 and 632, identified as PIN 7816-26-1092-000, from Commercial Neighborhood (C-1) to Residential-1 (R-1) be, and is hereby, approved, subject to the Concept Development Plan dated January 2, 2002, signed by James A. Carson, Jr., December 2, 2002, received in the Community Development Department December 3, 2002, and the Proffer Statement executed by Margaret L. Dyson on December 3, 2002, which provides for a maximum of five residential lots.

CONSIDER REZONING REQUEST #RZ03-M-01 – CARLIN W. MILLS AND HAROLD E. MILLS, OWNERS, AND J. WILLIAM GILLIAM, APPLICANT – JWG, LLC

On December 16, 2002, a public hearing was held to receive citizen comment on a request to rezone 1.78 acres from Residential-4 (R-4) to Commercial-Highway (C-2). The property is located at the southeast quadrant of the intersection of Winchester Road (Business Route 17) and future extension of Route 622. Mr. Atherton moved to table a decision on the matter until February 18, 2003. Mr. Weeks seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy
Nays: None
Absent During Vote: Mr. Joe Winkelmann
Abstention: None

A RESOLUTION TO AMEND THE 2003 BYLAWS AND RULES OF PROCEDURE OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS

Mr. Atherton moved to approve the following resolution to amend the 2003 Bylaws and Rules of Procedure of the Fauquier County Board of Supervisors. Mr. Graham seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy
Nays: None
Absent During Vote: Mr. Joe Winkelmann
Abstention: None

RESOLUTION

A RESOLUTION TO AMEND THE 2003 BYLAWS AND RULES OF PROCEDURE OF THE FAUQUIER COUNTY BOARD OF SUPERVISORS

WHEREAS, at its organizational meeting held on January 6, 2003, the Board of Supervisors adopted its Bylaws and Rules of Procedure for 2003; and

WHEREAS, certain clarifying amendments hereinafter set forth have been proposed; and

WHEREAS, upon consideration of the amendments, the Board has determined that it should amend its Bylaws and Rules of Procedure for 2003; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That its 2003 Bylaws and Rules of Procedure be, and are hereby, amended as set forth in the attached revised 2003 Bylaws and Rules of Procedure, which are incorporated herein.

2003
BYLAWS AND RULES OF PROCEDURE
FAUQUIER COUNTY BOARD OF SUPERVISORS
SECTION 1 -- PURPOSE AND BASIC PRINCIPLES

Section 1-1 Purpose of Bylaws and Rules of Procedure

- A. To enable County government to transact business expeditiously and efficiently;
- B. To protect the rights of each individual;
- C. To preserve a spirit of cooperation among Board members; and
- D. To determine the pleasure of the Board on any matter.

Section 1-2 Five Basic Principles Underlying Bylaws and Rules of Procedure

- A. Only one subject may claim the attention of the Board at one time;
- B. Each item presented for consideration is entitled to full and free discussion;
- C. Every member has rights equal to every other member;
- D. The will of the majority must be carried out, and the rights of the minority must be preserved;
- E. The personality and desires of each member should be merged into the larger unit -- the Fauquier County Board of Supervisors.

SECTION 2 -- MEETINGS

Section 2-1. Regular Meetings

A. The time and place of regular meetings of the Board of Supervisors (hereinafter referred to as the Board) shall be established at the Board's annual organizational meeting. Regular meetings shall be held in the Board Meeting Room, Warren Green Building, 10 Hotel Street, Warrenton, Virginia, on the third Monday of each month. The meeting agenda shall be as follows: 1:00 p.m. Work Sessions; 6:30 p.m. Regular Session; 7:00 p.m. Public Hearings. The Board may, however, prescribe any other meeting place or time in compliance with Section 15.2-1416 of the Code of Virginia (1950), as amended.

B. When a regularly scheduled meeting falls on a legal holiday, the meeting shall be held on the following business day.

Section 2-2 Special Meetings

A. The Board may hold such special meetings, as it deems necessary, at such times and places as it may find convenient; and it may adjourn from time to time. Any two (2) members may call a special meeting of the Board in such a manner as prescribed by Section 15.2-1418 of the Code of Virginia (1950), as amended. Only matters specified in the notice shall be considered unless all of the members of the Board are present. Where a special meeting has been called, the Board shall give to the media and general public such notice of the time, place and purpose of the meeting as is feasible.

Section 2-3 Annual Organizational Meetings

A. The first meeting held after the newly elected members of the governing body shall have qualified and the first meeting held in the corresponding month of each succeeding year shall be known as the annual meeting. The County Administrator shall preside during the election of the Chairman of the Board.

B. The Chairman shall be elected at the annual meeting for a term of one year. The Chairman may succeed himself/herself in office.

C. Following the election of the Chairman, he/she will assume the chair and conduct the election of the Vice Chairman.

D. Following the election of the Vice Chairman, the Board shall:

1. Establish dates, times and places for the regular meetings;
2. Adopt its Bylaws and Rules of Procedure;
3. The Chairman shall make Board appointments to standing and ad hoc Board committees as required.

Section 2-4 Quorum and Method of Voting

A. At any meeting, a majority of the Supervisors shall constitute a quorum. All questions submitted to the Board for decision shall be determined by a roll call vote. The Chairman may choose to have the vote by voice vote or by show of hands; however, if there is one "no" vote or one abstention, the Board shall be polled and the name of each member voting and how he or she voted shall be recorded. Any member voting no or abstaining shall have the responsibility for asking for a roll call vote.

B. Members abstaining shall state for the record their reason for abstaining.

C. A tie vote fails.

Section 2-5 Board to Sit In Open Session

A. The Board shall sit in open session and all persons conducting themselves in an orderly manner may attend the meetings; provided, however, the Board may conduct Closed Meetings as permitted under the Virginia Freedom of Information Act.

Section 2-6 Closed Meetings

A. Closed Meetings may only be convened in conformance with Section ~~2-1-344~~ **2.2-3711** of the Code of Virginia (1950), as amended.

B. No resolution, ordinance, rule, contract, regulation or motion agreed to in a Closed Meeting shall become effective until the Board reconvenes in an open session and takes a vote of the membership on such resolution, ordinance, rule, contract or regulation or motion which shall have its substance reasonably identified in the open meeting.

C. At the conclusion of a Closed Meeting, the Board shall reconvene in open session immediately thereafter and shall take a roll call vote certifying that to the best of each members' knowledge:

1. Only public business matters lawfully exempted from open session requirements were discussed;
2. Only public business matters identified in the motion convening the Closed Meeting were heard, discussed or considered.

Any member who believes that there was a departure from the above requirements shall so state prior to the vote, indicating the substance of the departure that, in his/her judgment, has taken place.

D. The failure of the certification to receive the affirmative vote of a majority of the members present during the Closed Meeting shall not affect the validity or confidentiality of the Closed Meeting with respect to matters considered therein in compliance with the Freedom of Information Act.

E. The Board may permit non-members to attend a Closed Meeting if their presence will reasonably aid the Board in its consideration of an issue.

SECTION 3 -- OFFICERS

Section 3-1 Chairman and Vice Chairman

A. The Chairman shall preside over all meetings of the Board of Supervisors. The Chairman shall appoint Board members to serve on standing committees and ad hoc committees established by the Board of Supervisors. The Chairman shall annually appoint a chairman for each standing committee, which appointments shall occur at the Board's annual organizational meeting or at the inception of the committee for new committees. Upon the death, resignation or other permanent disability of the Chairman to fulfill the duties of his office, the Board shall elect a new Chairman at its next regularly scheduled meeting or as soon thereafter as possible.

B. The Vice-Chairman shall preside over all meetings of the Board of Supervisors when the Chairman is unable to attend or in absence of a Chairman due to death, resignation or permanent disability until the Board elects a new Chairman in accordance with Section 3-1.A.

Section 3-2 Clerk

A. The Clerk of the Board shall be the County Administrator. The County Administrator may appoint one or more members of the County staff to serve as Deputy Clerk of the Board.

Section 3-3 Parliamentary

A. The County Attorney shall serve as the Parliamentary for the purpose of interpreting these Bylaws and Rules of Procedure and Robert's Rules of Order as may be directed by the Chairman, or as required as a result of a point of order raised by any one or more Board members. If the County Attorney is unavailable, the County Administrator shall serve as the Parliamentary.

Section 3-4 Preservation of Order

A. At meetings of the Board, the presiding officer shall preserve order and decorum.

SECTION 4 -- CONDUCT OF BUSINESS

Section 4-1 Order of Business

A. The Board shall adopt an agenda, including a consent agenda, for each meeting by recorded vote of a majority of the Board members present. The adoption of the agenda shall be the first item for action following the Call To Order, Invocation, and Pledge of Allegiance.

Section 4-2 Recognitions

A. The Board may adopt appropriate proclamations to recognize noteworthy citizens and events.

Section 4-3 Consent Agenda

A. The Chairman and County Administrator shall style routine, non-controversial matters requiring Board action on a Consent Agenda. Items may be removed from the Consent Agenda and placed on the Regular Agenda on recorded vote by a majority of the Board members present. Only one motion is necessary to adopt all recommendations and action items on the Consent Agenda.

Section 4-4 Citizens' Time

A. The Board shall set aside twenty (20) minutes for Citizens' Time on each regular Board Meeting Agenda. **Citizens' Time shall be held after the adoption of the agenda.** During this period, the Board shall receive comment from any citizen on any non-agenda item or any agenda item not scheduled for public hearing by the Board provided that the Chairman prohibit or proscribe the use of obscenity or other speech tending to create a breach of the peace; and provided further that no individual citizen shall be permitted to address the Board for more than five (5) minutes. In the event that more than four (4) speakers wish to be heard during Citizens' Time, the Chairman shall allocate the aforesaid twenty (20) minutes among speakers in an equitable manner. The time allocated for Citizen's Time may be extended by majority vote of the Board of Supervisors.

Section 4-5 Supervisors' Time

A. On each regular Board Meeting Agenda there shall be a period designated as Supervisors' Time, during which each Board member shall be entitled to unrestricted use of five (5) minutes for such purposes as each member of the Board deems appropriate. Matters discussed during Supervisors' Time shall not constitute formal agenda items unless the adopted agenda is amended by majority vote of the members present and voting.

Section 4-6 Board of Supervisors Meeting Agenda Submissions

A. Board agenda requests shall comply with the "Administrative Guidelines for Board of Supervisors' Agenda Items". This agenda item submission protocol is promulgated by the County Administrator's Office subject to review by the Board.

Section 4-7 Motions

A. No motion shall be discussed prior to being duly seconded in accordance with these Bylaws.

B. All motions shall be duly seconded before being voted.

C. When a question is under discussion, no motion shall be received unless it is one to amend, to commit, to postpone, for the previous question, for a substitute motion, a motion to lay on the table, or a motion to adjourn.

D. A maker of a motion may not speak against his motion.

E. No member may speak more than twice to the same motion.

F. No member may speak a second time on a motion until every member desiring to speak has spoken.

G. ~~A substitute motion shall be allowed to any motion properly on the floor; it shall have precedence over an existing motion and may be discussed prior to being voted on. If a vote on the substitute motion does not dispose of the former motion, the former motion must then be voted. Once a substitute motion is voted upon, a second substitute motion may be made. No more than two (2) substitute motions may be made.~~
A substitute motion may be made by any member to any motion properly on the floor. Once seconded, the substitute motion shall take precedence and all debate or action on the existing motion shall cease until the substitute motion is decided. Debate on a substitute motion is permissible. If the substitute motion is passed by a majority vote of the members then present, the original motion is supplanted by the substitute motion. A second substitute motion can be made only after the first substitute motion is decided by vote of the Board. No more than two substitute motions may be made on any agenda item.

H. When a vote upon any motion has been announced, it may be reconsidered on the motion of any member who voted with the prevailing side provided that such motion shall be made at the session of the Board at which it was decided or the immediate subsequent regular meeting. Such motion for reconsideration shall be decided by a majority of the votes of the members present.

I. In accordance with the Constitution of the Commonwealth of Virginia, a recorded affirmative vote of a majority of the entire Board shall be required to pass any ordinance or resolution imposing taxes, authorizing the borrowing of money, or appropriating funds in excess of \$500.00.

Section 4-8 Decisions on Points of Order

A. The Chairman, when presiding at a meeting of the Board, without vacating the chair, shall refer any point of order to the Parliamentarian.

Section 4-9 Appeal to Board

A. Any member of the Board may appeal to the Board from the decision of the Chairman on any question of order or the interpretation of these Bylaws. A majority vote of those present is necessary to overrule the Chairman. No second is required on a member's appeal.

Section 4-10 Motion to Adjourn

A. At a meeting of the Board, a motion to adjourn shall always be in order.

Section 4-11 Suspending Rules

A. One or more of these Bylaws and Rules of Procedure may be suspended with the concurrence of two-thirds of the members present.

Section 4-12 Amendment of Rules

A. These Rules of Procedure may be amended by majority vote of the entire membership, provided that a proposed amendment may not be voted on unless a text thereof shall have been presented to the Board at a previous meeting at which the date for a vote on the proposal had been established. Such notice shall not be required for any amendment adopted at the annual meeting. Any proposed amendment shall be subject to further amendment at the meeting at which the vote is taken.

Section 4-13 Robert's Rules of Order

A. The proceedings of the Board, except as otherwise provided in the Bylaws and Rules of Procedure and by applicable State law, shall be governed by Robert's Rules of Order, provided, however, that the rules governing small assemblies contained in Robert's Rules of Order shall not apply.

SECTION 5 -- AGENDA

Section 5-1 Preparation

A. The Clerk shall prepare an agenda for the regularly scheduled meetings conforming to the order of business specified in Section 4-1 titled "Order of Business".

B. Matters may be placed on a Board agenda only in the following manner: (1) by resolution of the Board; or (2) upon the direction of any member of the Board of Supervisors; or (3) by the County Administrator or County Attorney; or (4) when directed by Section 15.2-1243 et seq. of the Code of Virginia as a claim to be presented to the Board of Supervisors; or (5) upon referral of a land use matter to the Board of Supervisors as provided for in Chapter 22 of Title 15.2 of the Code of Virginia. No matter may be placed upon the Board's agenda unless an Agenda Request form has been submitted to the County Administrator at least ten (10) days prior to the Board meeting for which the item is scheduled to be considered. Pursuant to Paragraph A. of this section, the County Administrator shall place agenda items submitted in conformance with this paragraph on the Board's agenda for the next regular meeting following its timely submission.

C. All items which are requested to be placed on the agenda which have not been submitted within the prescribed deadline shall be placed on the next regular agenda for consideration.

Section 5-2 Delivery of Agenda

A. The agenda and related materials for regular Board meetings shall be available to each member of the Board and the County Attorney for pick-up in the office of the County Administrator by Noon on the Thursday immediately prior to the meeting.

Section 5-3 Copies

A. The Clerk of the Board shall prepare or cause to be prepared extra copies of the agenda and shall make the same available to the public in the Office of the County Administrator. The Clerk shall also have copies available at each meeting. The Clerk shall post the agenda in such public places in the County as shall give the public as much notice of the agenda as is feasible.

Section 5-4 Comments, Queries of Board Members

A. Board members are to observe the following rule during the discussion of agenda items, public hearings excepted:

Comments of Board members must be constructive and germane to the subject at hand. The Chairman rules other comments out of order.

SECTION 6 -- BOARD APPOINTMENTS

Section 6-1 Board of Supervisors Standing Committees

A. The Board, by majority vote, may establish standing committees of the Board (i.e. Personnel, Finance). Each standing committee, once established by the Board, shall consist of two members of the Board appointed by the Chairman at the annual organizational meeting or at the inception of the committee for new standing committees.

Section 6-2 Board of Supervisors Ad-Hoc Committees

A. The Board, by majority vote, may establish ad hoc committees. The Chairman shall appoint Board members to serve on ad hoc committees. Ad hoc committee assignments can be made at the annual organizational meeting or at the inception of the committee for new ad hoc committees. Upon establishment of an ad hoc committee, the Chairman shall appoint a Chairman pro tem. The Chairman pro tem shall serve until the Committee recommends a Chairman to the Board. The Board shall discuss the recommended appointment and shall make a recommendation to its Chairman who shall make the appointment subject to appeal as defined in Section 4-9 above. Thereafter, all ad hoc committees shall annually forward their recommendation for Chairman no later than the last day of each December so as to permit the appointment of a Chairman at the Board's Annual Organizational Meeting for the following calendar year.

Section 6-3 Citizen Appointments

A. All appointments of citizens, other than members of the Board of Supervisors, shall be made by a majority vote of Board members present.

B. Unless specified by law or otherwise, all appointments of citizens shall be made at the first January meeting after the election of the Board of Supervisors and shall be for a term of four years.

Section 6-4 Committee Attendance

Members of any standing or ad hoc committee of the Board of Supervisors, or of any committee to which the Board of Supervisors appoints a member, shall be expected to attend every scheduled meeting of the committee to which they have been appointed. It shall be the duty of the chairman of any board of supervisor's appointed committee to annually report to the Board of Supervisors the level of attendance of committee members. Upon the appointment of any committee member, the Clerk to the Board of Supervisors shall forward to the member a copy of this section.

A RESOLUTION TO WAIVE ZONING ORDINANCE SECTION 7-302.1.B TO ALLOW A PRIVATE STREET THAT DOES NOT CONNECT DIRECTLY TO A STATE MAINTAINED STREET, RONALD L. HARDING, OWNER/APPLICANT, CEDAR RUN DISTRICT

Mr. Graham moved to approve the following resolution. Mr. Weeks seconded, and the vote for the motion was unanimous as follows:

Ayes: *Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy*
Nays: *None*
Absent During Vote: *Mr. Joe Winkelmann*
Abstention: *None*

RESOLUTION

A RESOLUTION TO WAIVE ZONING ORDINANCE SECTION 7-302.1.B TO ALLOW A PRIVATE STREET THAT DOES NOT CONNECT DIRECTLY TO A STATE MAINTAINED STREET

WHEREAS, Ronald L. Harding, applicant, is seeking a waiver to Zoning Ordinance Section 7-302.1.B to allow a subdivision on a private street that does not connect directly to a state maintained street; and

WHEREAS, the applicant wishes to submit a family transfer division application to divide his 45.8121 acre parcel, identified as PIN 7920-78-9858-000, into two (2) lots to create a lot for his father, with access via a twenty-foot easement to Old Devil's Turnpike; and

WHEREAS, Old Devil's Turnpike is an existing private street that connects directly to Bristersburg Road (Route 616), a state maintained street; and

WHEREAS, only one (1) family transfer lot may be created from the 45.8121 acre parcel, and no subsequent lots may be created under the current Rural Agriculture zoning designation and County Ordinances; and

WHEREAS, at its meeting on January 7, 2003, the Fauquier County Planning Commission recommended approval of the proposed Zoning Ordinance waiver; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That Zoning Ordinance Section 7-302.1.B is waived to permit Ronald L. Harding to create one (1) family transfer division on the above referenced parcel on a private street that does not connect directly to a state maintained street.

A RESOLUTION TO AMEND THE BOARD OF SUPERVISORS' PROFFER POLICY

Ms. McCamy moved to table a decision on a resolution to amend the Board of Supervisors' Proffer Policy until February 18, 2003. Mr. Weeks seconded, and the vote for the motion was unanimous as follows:

Ayes: *Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy*
Nays: *None*
Absent During Vote: *Mr. Joe Winkelmann*
Abstention: *None*

Appointments

By unanimous consent, the following appointments were approved:

- Local Workforce Investment Board, Vince Cody, reappointed.
- Local Workforce Investment Board, Holly Williams, reappointed.
- Disability Services Board , Lynda Carscallen, reappointed, with a term to expire January 21, 2006.

Supervisors Time

- Ms. McCamy stated that she intended to address a request for the Board to reconsider the ban of guns in County parks.

Announcements

There were no announcements.

FISCAL YEAR 2003 BUDGET AMENDMENTS

A public hearing was held to consider an amendment to the FY 2003 adopted budget in the amount of \$1,371,819 for various budget related issues including, but not limited to, School Division Title VI-I reimbursement, Title 1 Grant, E-Rate, and Department of Fire and Emergency Services equipment and vehicle replacement. Mr. Atherton waived the requirement for the Budget Director to provide a staff report. There were no speakers. The public hearing was closed. Mr. Atherton moved to adopt the following resolution. Mr. Graham seconded, and the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>Mr. Joe Winkelmann</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO AMEND THE FY 2003 ADOPTED BUDGET IN THE AMOUNT OF \$1,371,819

WHEREAS, the Board of Supervisors is charged by the Code of Virginia with the preparation of an annual budget for Fauquier County; and

WHEREAS, on March 25, 2002, the Fauquier County Board of Supervisors adopted the Fauquier County FY 2003 Budget; and

WHEREAS, during the course of the fiscal year certain events occur which necessitate changing the budget plan by increasing or decreasing the total budget; and

WHEREAS, the Finance Committee has recommended FY 2003 appropriation of \$1,371,819 for the purposes set forth below; and

WHEREAS, the Code of Virginia requires local jurisdictions to hold a public hearing, which is scheduled for January 21, 2003, for any amendment to the adopted budget exceeding the lesser of \$500,000 or 1% of the total budget; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the County Administrator be, and is hereby, directed to consider amending the Fauquier County FY 2003 Budget in the amount of \$1,371,819 as follows:

Source	FROM Code	Amount	Department	TO Code	Amount
<u>FY 2003</u>					
Federal Funds	3-100-331000-0045	\$1,500	Sheriff's Office	4-100-031200-6029	\$1,500
Federal Funds	3-100-331000-0045	\$800	Sheriff's Office	4-100-031200-6031	\$800
Federal Funds	3-205-332000-0019	\$988,851	School Division	4-205-61100-1114-200-005-450	\$6,724
				4-205-61100-1121-200-005-450	\$37,000
				4-205-61100-1124-200-005-450	\$5,301
				4-205-61100-1125-200-005-450	\$3,085
				4-205-61100-2100-200-005-450	\$3,986
				4-205-61100-2210-200-005-450	\$4,570
				4-205-61100-2212-200-005-450	\$474
				4-205-61100-2720-200-005-450	\$141
				4-205-61100-1121-300-005-450	\$35,991
				4-205-61100-2100-300-005-450	\$2,753
				4-205-61100-2210-300-005-450	\$3,156
				4-205-61100-2212-300-005-450	\$327
				4-205-61100-2720-300-005-450	\$97
				4-205-61100-3500-300-005-450	\$1,000
				4-205-61100-5410-300-005-450	\$5,000
				4-205-61100-5540-300-005-450	\$10,000
				4-205-61100-6002-300-005-450	\$150
				4-205-61100-6013-300-005-450	\$814,096
				4-205-61100-8200-300-005-450	\$55,000
Federal Funds	3-205-332000-0002	\$239,771	School Division	4-205-61100-1121-200-005-410	\$77,546
				4-205-61100-2100-200-005-410	\$5,932
				4-205-61100-2210-200-005-	\$6,801

				410	
				4-205-61100-2212-200-005-410	\$706
				4-205-61100-2720-200-005-410	\$209
				4-205-61100-6013-200-005-410	\$133,577
				4-205-61100-5504-200-005-410	\$5,000
				4-205-61100-8200-200-005-410	\$10,000
Local Funds	3-205-189913-0016	\$49,420	School Division	4-205-061325-8212-200-001-000	\$49,420
Fund Balance	3-270-419000-0010	\$91,477	Fire and Emergency Services	4-270-34100-8207	\$21,977
				4-270-34100-8200	\$22,500
				4-270-34100-8205	\$47,000
<u>TOTAL</u>		\$1,371,819	<u>TOTAL</u>		\$1,371,819

FISCAL YEAR 2003 BUDGET AMENDMENTS

A public hearing was held to consider an amendment to the FY 2003 adopted budget in the amount of \$1,251,882 for various budget related issues including, but not limited to, School Division carryover funds, adult basic education grant, Standards of Learning teacher materials, and Standards of Learning training initiative. Mr. Atherton waived the requirement for the Budget Director to provide a staff report. There were no speakers. The public hearing was closed. Mr. Atherton moved to adopt the following resolution. Mr. Graham seconded, and the vote for the motion was unanimous as follows:

Ayes: *Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy*

Nays: *None*

Absent During Vote: *Mr. Joe Winkelmann*

Abstention: *None*

RESOLUTION

A RESOLUTION TO AMEND THE FY 2003 ADOPTED BUDGET IN THE AMOUNT OF \$1,251,882

WHEREAS, the Board of Supervisors is charged by the Code of Virginia with the preparation of an annual budget for Fauquier County; and

WHEREAS, on March 25, 2002, the Fauquier County Board of Supervisors adopted the Fauquier County FY 2003 Budget; and

WHEREAS, during the course of the fiscal year certain events occur which necessitate changing the budget plan by increasing or decreasing the total budget; and

WHEREAS, the Finance Committee has recommended FY 2003 appropriation of \$1,251,882 for the purposes set forth below; and

WHEREAS, the Code of Virginia requires local jurisdictions to hold a public hearing, which is scheduled for January 21, 2003, for any amendment to the adopted budget exceeding the lesser of \$500,000 or 1% of the total budget; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the County Administrator be, and is hereby, directed to consider amending the Fauquier County FY 2003 Budget in the amount of \$1,251,882 as follows:

Source	FROM Code	Amount	Department	TO Code	Amount
<u>FY 2003</u>					
Federal Funds	3-100-331000-0040	\$1,443	Sheriff's Office	4-100-031230-8201	\$1,443
State Funds	3-205-242000-0081	\$26,905	School Division	4-100-053140-5718	\$26,905
Fund Balance Carryover	3-100-419000-0010	\$2,000	School Division	4-205-061100-3500-200-002-000	\$2,000
Fund Balance Carryover	3-100-419000-0010	\$4,105	School Division	4-205-061355-8212-200-001-000	\$4,105
Fund Balance Carryover	3-100-419000-0010	\$83,969	School Division	4-205-061310-5541-200-001-000	\$83,969
Fund Balance Carryover	3-100-419000-0010	\$15,318	School Division	4-205-061100-1121-300-005-470	\$15,318
Fund Balance Carryover	3-100-419000-0010	\$63,792	School Division	4-205-061310-6027-300-001-000	\$63,792
Fund Balance Carryover	3-100-419000-0010	\$18,737	School Division	4-205-061100-8200-302-001-000	\$18,737
Fund Balance Carryover	3-100-419000-0010	\$70,445	School Division	4-205-61100-1121-300-005-455	\$36,500
				4-205-61100-1150-300-005-455	\$19,200
				4-205-61100-2100-300-005-455	\$4,262
				4-205-061100-2210-300-005-455	\$3,446
				4-205-061100-2310-300-005-455	\$4,020
				4-205-061100-2720-300-005-455	\$24
				4-205-061100-5540-300-005-455	\$2,000
				4-205-061100-6013-300-005-455	\$993
Fund Balance Carryover	3-100-419000-0010	\$965,168	School Division	4-205-061100-1000	\$965,168
<u>TOTAL</u>		\$1,251,882	<u>TOTAL</u>		\$1,251,882

REZONING REQUEST #RZ02-L-08 - HELEN F. HELM, OWNER, AND RICHARD M. BARB, LLC, APPLICANT

A public hearing was held to consider an application to rezone approximately 139.5 acres from Residential-1 (R-1) to Residential-2 (R-2). The property is located east of James Madison Highway (Routes 15/29) and west of Business Routes 15/29 in the Remington Service District, Lee District (PIN's #6888-13-8870-000 and #6888-15-4359-

000). Elizabeth Cook, Chief of Planning, gave an overview of the rezoning application. Ben Tissue, representing the applicant, requested approval of the application. Kitty Smith, Marshall District, spoke in favor of the application. Mary Root, Lee District, spoke in opposition to the application. There were no other speakers. The public hearing was closed. Ms. McCamy moved to continue the public hearing for additional citizen comments to be received on February 18, 2003. Mr. Graham seconded, and the vote for the motion was unanimous as follows:

Ayes: *Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy*
Nays: *None*
Absent During Vote: *Mr. Joe Winkelmann*
Abstention: *None*

REZONING REQUEST #RZ03-M-08 – FAUQUIER HERITAGE & PRESERVATION FOUNDATION, INC., OWNER/APPLICANT

A public hearing was held to consider a request for rezoning to allow the development of a transportation museum in addition to the current allowed office use. The property is zoned Commercial – 1 Conditional and is located at 4110 Winchester Road, Marshall Service District (PIN #6969-68-7960-000). Rick Carr, Director of Community Development, summarized the rezoning request. Bob Sinclair, Scott District, spoke in support of the application. There were no other speakers. The public hearing was closed. Mr. Atherton moved to adopt the following Ordinance. Mr. Weeks seconded, and the vote for the motion was unanimous as follows:

Ayes: *Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy*
Nays: *None*
Absent During Vote: *Mr. Joe Winkelmann*
Abstention: *None*

ORDINANCE

AN ORDINANCE APPROVING REZONING APPLICATION RZ03-M-08, MARSHALL DISTRICT, FAUQUIER HERITAGE AND PRESERVATION FOUNDATION, INC., APPLICANT, PIN: 6969-68-7960-000

WHEREAS, on December 17, 1985, the subject property was rezoned to its current C-1 zoning district; and

WHEREAS, as part of that rezoning, the applicant proffered to limit the use of structures to offices only; and

WHEREAS, subsequent to that rezoning, the applicant received TEA-21 funding in the amount of \$395,000 to develop a transportation museum on the subject property; and

WHEREAS, except for the existing proffer condition, the current zoning allows for the development of a museum by Special Permit; and

WHEREAS, proposed rezoning RZ03-M-08 deletes the proffer language limiting the use to office only, and specifically adds a museum as an allowable use; and

WHEREAS, at its meeting on December 19, 2002, the Planning Commission conducted a public hearing on RZ03-M-08 and voted to forward a recommendation for its approval to the Board of Supervisors; and

WHEREAS, the Board of Supervisors finds that the public necessity, convenience, general welfare and good zoning practice require approval of the proposed rezoning; now, therefore, be it

ORDAINED by the Fauquier County Board of Supervisors this 21st day of January 2003, That Rezoning RZ03-M-08, Fauquier Heritage And Preservation Foundation, Inc. be, and is hereby, approved subject to the revised Concept Development Plan and Proffer Statement.

CONSIDER SPECIAL EXCEPTION #SE03-L-17 – MICHAEL AND BARBARA WINTERMYER, OWNERS/APPLICANTS

A public hearing was held to consider an application for special exception under Category 26, which would allow for a decrease in the non-common open space requirement. The property is zoned Rural-Agriculture (RA) and is located on the southwest side of Cemetery Road (Route 658), Lee District (PIN #6879-30-1974-000). Rick Carr, Director of Community Development, gave an overview of the special exception application. There were no speakers. The public hearing was closed. Ms. McCamy moved to table a decision on the matter until February 18, 2003. Mr. Graham seconded, and the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>Mr. Joe Winkelmann</i>
<i>Abstention:</i>	<i>None</i>

SUBDIVISION ORDINANCE TEXT AMENDMENT

A public hearing held to consider amending Section 2-39(A)(1) of the Subdivision Ordinance to include in the definition of “immediate family members” grandparent, spouse, sibling, aunt, uncle, niece, and nephew. Elizabeth Cook, Chief of Planning, summarized the proposed text amendment. Chuck Medvitz, Scott District; Meredith Whiting, Marshall District; John Bulboick, Cedar Run District; and Kitty Smith, Marshall District, spoke in opposition to the text amendment. There were no other speakers. The public hearing was closed. Ms. McCamy moved to table a decision on the matter until February 18, 2003. Mr. Graham seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy
Nays: None
Absent During Vote: Mr. Joe Winkelmann
Abstention: None

CONVEYANCE OF EASEMENT

A public hearing was held to consider conveyance of an easement to Dominion Virginia Power for electrical service over a portion of County property at the future Bealeton Library, Lee District (PIN #6899-34-9247). There were no speakers. The public hearing was closed. Ms. McCamy made a motion to approve the following resolution. Mr. Graham seconded, and the vote for the motion was unanimous as follows:

Ayes: Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy
Nays: None
Absent During Vote: Mr. Joe Winkelmann
Abstention: None

RESOLUTION

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AN EASEMENT FOR THE INSTALLATION AND OPERATION OF UNDERGROUND ELECTRIC LINES AND CABLES UPON THE FUTURE SITE OF THE BEALETON LIBRARY

WHEREAS, Fauquier County is the titled owner of a parcel of property having Parcel Identification Number 6899-34-9247, the future site of the Bealeton Library; and

WHEREAS, Fauquier County wishes to obtain underground electrical service to the aforesaid property; and

WHEREAS, Dominion Virginia Power is willing to provide said electric power services contingent upon the grant of an easement to locate the necessary power lines and cables to provide said services; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That the County Administrator be, and is hereby, authorized to execute an easement authorizing Dominion Virginia Power to locate and operate underground electric lines and cables on the property of the County identified as PIN 6899-34-9247, as shown on the plat attached to the aforesaid easement.

MODIFICATION OF LANDFILL RATES

A public hearing was held to consider a change in the landfill rate structure by establishing a new rate of \$30.00 a ton for municipal solid waste from the County convenience sites. There were no speakers. The public hearing was closed. Mr. Graham

made a motion to approve the following resolution. Mr. Weeks seconded, and the vote for the motion was unanimous as follows:

<i>Ayes:</i>	<i>Mr. Harry Atherton; Mr. Larry L. Weeks; Mr. Raymond Graham; Ms. Sharon McCamy</i>
<i>Nays:</i>	<i>None</i>
<i>Absent During Vote:</i>	<i>Mr. Joe Winkelmann</i>
<i>Abstention:</i>	<i>None</i>

RESOLUTION

A RESOLUTION TO CHANGE THE LANDFILL RATE STRUCTURE BY ESTABLISHING A NEW RATE OF \$30.00 A TON FOR MUNICIPAL SOLID WASTE FROM COUNTY CONVENIENCE SITES

WHEREAS, the Fauquier County Board of Supervisors reviewed the financial plan for the Landfill at a work session held on December 16, 2002; and

WHEREAS, the County General Fund provides administrative, financial, human resources, and legal services to the landfill; and

WHEREAS, the County convenience sites constitute the largest source of municipal solid wastes; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this 21st day of January 2003, That a new rate of \$30.00 a ton for municipal solid waste delivered from County convenience sites be, and is hereby, effective January 1, 2003.

With no further business, the meeting was adjourned.

I hereby certify that this is a true and exact record of actions taken by the Fauquier County Board of Supervisors on January 21, 2003.

G. Robert Lee
Clerk